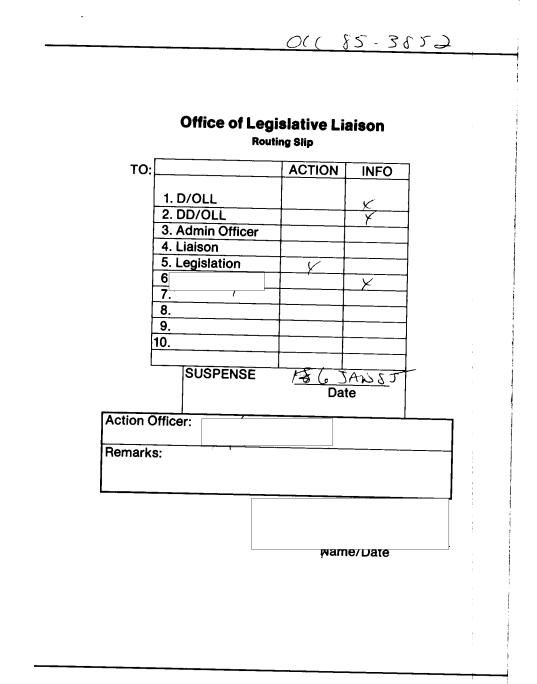
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## EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SPECIAL

December 6, 1985

## LEGISLATIVE REFERRAL MEMORANDUM

85-3852

T0:

Legislative Liaison Officer-

National Security Council

Department of State

Central Intelligence Agency

Department of Justice

General Services Administration

Department of Commerce

SUBJECT:

DOD's draft report on a drft bill, "To protect

U.S. government telecommunications from interception

and interference by hostile foreign powers."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than MONDAY, JANUARY 6, 1986.

Questions should be referred to Sue Thau the legislative analyst in this.

(395-7300),

RONALD K. PETERSON FOR Assistant Director for Legislative Reference

Enclosures cc: B. Howard

SPECIAL



## DEPARTMENT OF DEFENSE OFFICE OF GENERAL COUNSEL WASHINGTON, D.C. 20301

December 2, 1985

Honorable James C. Miller III Director, Office of Management and Budget Washington, D.C. 20503

Dear Mr. Miller:

The views of the Department of Defense have been requested on a draft bill, "To protect United States government telecommunications from interception and interference by hostile foreign powers, and for other purposes."

Advice is requested as to whether there is objection to the presentation of the attached report to the Committee.

Sincerely,

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Werner Windus Director Legislative Reference Service

Enclosures



## GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON DC 20301

Mr. David S. Addington Counsel, Subcommittee on Legislation Permanent Select Committee on Intelligence House of Representatives Washington, D.C. 20515

Dear Mr. Addington:

This is in response to your request for the views of the Department of Defense on a draft bill, "To protect United States government telecommunications from interception and interference by hostile foreign powers, and for other purposes."

The Department of Defense supports the draft bill. It believes that such legislation could serve a highly useful purpose in denying access to foreign companies seeking cryptographic and communications security information. As you know, such requests have increased in recent months and show no sign of abating. While we have thus far been successful in denying such requests, we see the possibility of future legal action quiestioning our authority. Legislation such as the draft bill would demonstrate the unanimous view of both the legislative and executive branches that the Nation's communications security equities will not be entrusted to foreign entities. The very presence of such legislation would, we feel abundantly certain, be helpful in discouraging legal challenges.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

Chapman B. Cox

99th Congress :
1st Session
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interference by hostile foreign powers, and for other purposes.
IN THE HOUSE OF REPRESENTATIVES
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SEC. 2. (a) Chapter 4 of title 10, United States Code is amended by adding at the end thereof the following new section:

"§140d. Cryptographic Security

- "(a) To ensure the integrity of communications relating to activities of the United States government, the Secretary of Defense is authorized to issue regulations governing the purchase, use and disposal by the United States government and by contractors with the United States government of cryptographic equipment.
- "(b)(1) The United States government and contractors with the United States government shall comply with regulations issued pursuant to subsection (a).
- "(2) In addition to any administrative or other remedy which may be available, the United States may bring a civil action against a contractor with the United States government in any district court of the United States to enforce regulations issued pursuant to subsection (a).
- "(c) Regulations issued pursuant to subsection (a) shall be submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Armed Services of the Senate, no later than thirty days before such regulations take effect.
- "(d) The Secretary of Defense may delegate the authority granted by subsection (a) only to the Deputy Secretary of Defense and the Director,

- "(e) As used in this section --
- "(1) 'contractors' means individuals, sole proprietors, associations, partnerships, corporations and other entities performing under contracts with the United States, and includes subcontractors;
- "(2) 'cryptographic equipment' means equipment designed to provide security or protection to telecommunications by converting information to a form unintelligible to an unauthorized recipient or interceptor and by reconverting such information to its original form for authorized recipients; equipment designed specifically to aid in, or as an essential element of, such a conversion and reconversion process; and crypto-ancillary equipment, crypto-production equipment, and authentication equipment; and
- "(3) 'United States government' means executive departments, military departments, agencies, and independent establishments of the United States, and the armed forces, but does not include the Congress or the courts.".
- (b) The table of contents of Chapter 4 of title 10, United States Code is amended by adding at the end thereof the following:

"140d. Cryptographic Security.".